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SLAVERY AND SLAVE TRADE: STEPS TOWARD ERADICATION

Ved P. Nanda*

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I. THE "HUMAN RIGHTS PROGRAM"

Since the adoption of the Universal Declaration of Human Rights by the U.N. General Assembly in 1948,¹ the common aspirations of mankind have been symbolized by an extraordinary and unprecedented outpouring of concern for increased protection of all basic human rights. This activity set in motion demands for the codification of human rights law, to be accompanied by effective measures of implementation. As a result, there is today an impressive catalogue of Human Rights recognized in various conventions, treaties, agreements, and protocols, covering almost every aspect of mankind's basic values.² But there are few tasks which have had less fulfillment than the realization of the basic values of mankind, for the formulation of world community aspirations is a far cry from their translation into authoritative prescriptions.³

However, the uneven progression or nonprogression in some areas of the U.N. "Human Rights Program" should not obscure the fact that some advances have been made. The lack of progress is due in no small part to the latent ambiguities contained in the very concept of Human Rights.⁴ Those ambiguities are inherent in the

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¹ G.A. Res. 217A, U.N. Doc. A/810 (1948).

² See generally United Nations, *Human Rights: A Compilation of International Instruments* of the United Nations, U.N. Doc. A/CONF. 32/4 (1967).

³ Nanda, *The United Nations and Regional Arrangements to Implement Human Rights*, 21 DEPAUL L. REV. — (1972).

⁴ M. MOSKOWITZ, *THE POLITICS AND DYNAMICS OF HUMAN RIGHTS* 98-99 (1968) succinctly poses the problem:

[I]nternational human rights is still waiting for its theoretician to systematize the thoughts and speculations on the subject and to define desirable goals. Intelligent truisms do not necessarily add up to a theory. No one has yet

formulation and actuation of human rights as a social process with roots ascertainable in individual and collective basic values. The recognition and at least limited application of authoritative prescriptions in specific areas, such as slavery, confirms the need to avoid these ambiguities. Thus, the scope of the inquiry must be narrowed to specifics by applying means which are commensurate with the gradual development of human aspirations. The pioneering attempt of Professors Myres McDougal, Harold Lasswell, and Lung-Chu-Chen⁵ to undertake a systematic examination of the concept of human rights and to present a theoretical framework for applying the concept in specific instances provides the first solid basis for conducting further research and inquiry.

The minimum indispensable requirements for a dignified human existence includes the rights to life, liberty, and equality.⁶ These three rights have been expressed in specific conventions prohibiting genocide, slavery, forced prostitution, and racial discrimination.⁷ Moreover, the International Covenant on Civil and Political Rights

arisen to draw together into a positive synthesis the facts and fancies which emerge daily from events of bewildering complexity and to carry on an authentic debate. International concern with human rights is still very much a theme begging for a writer. And the scholar has not yet appeared to redress the distortions through a calm and systematic application of facts, to ground abstractions in the specific, and to define the limits of discourse. In the absence of a definite body of doctrine, as well as of deeply rooted convictions, international human rights have been dealt with on the basis of the shifts and vagaries of daily affairs and of evocations of daily events. There is a great need for technical resources and ability to channel the facts to greater effect. Human rights as a matter of international concern is an untrodden area of systematic research. But still a greater need is for superlative virtuosity to deal with international human rights in their multiple human dimensions.

⁵ McDougal, Lasswell and Chen, *Human Rights and World Public Order: A Framework for Policy-oriented Inquiry*, 63 AM. J. INT'L L. 237 (1969).

⁶ *Id.* at 267:

Let it be said immediately that a certain minimum of values indispensable to a dignified human existence must be prescribed as immune from all claims of derogation at all times. Notably among these are the right to life, freedom from torture and inhuman treatment, freedom from involuntary human experimentations, freedom from slavery, the slave trade and servitude, freedom from imprisonment for debt, freedom from retroactive application of criminal punishment, the right to recognition as a human being, and freedom of thought, conscience and religion. These rights and freedoms are indispensable to a dignified human existence and must remain wholly intact from derogation upon grounds of crisis. In terms of our basic postulation, it can never be necessary to encroach upon these rights and freedoms, even in time of emergency. Nor would their deprivation ever be proportional. If the emerging concept of *jus cogens* is to be given rational meaning in the context of a world public order of human dignity, its bedrock must be in this minimal protection of human rights.

⁷ G.A. Res. 260A, 78 U.N.T.S. 277 (Dec. 9, 1948). For the Convention on Genocide, see G.A. Res. 96 (Dec. 11, 1946). Slavery and Prostitution are discussed *infra*. See also McDougal and Arens, *The Genocide Convention and the Constitution*, 3 VAND. L. REV. 683 (1950). The International Convention on the Elimination of all Forms of Racial Discrimination adopted by G.A. Res. 2106A of Dec. 21, 1965, is contained in United Nations, Human Rights: A Compilation of International Instruments of the United Nations, U.N. Doc. A/CONF. 32/4 (1967).

and the optional protocol thereto, in addition to the International Covenant on Economic, Social and Cultural Rights⁸ offer a wide spectrum of protections in securing life, liberty, equality, and human dignity.

This article is devoted to the prohibition of "slavery." Its approach is not philosophical, but descriptive of the efforts of the world community in counteracting and controlling this institution. The relative success obtained in this area is a unique experiment in the application of world community prescriptions where, without resorting to repressive sanctions, the outcome has been essentially satisfactory. Since the enforcement mechanism was more dependent on voluntary compliance than on sanctions, its success suggests that the most effective means for combating internationally prohibited conduct is the stimulation of commonly shared basic values. Such stimulation is likely to lead to voluntary prohibition of slavery, and to the gradual elimination of the origins and causes of this conduct by the transformation of those values which tolerate such activity into values which reject it. To maximize the opportunity of accomplishing this goal, an enforcement mechanism should be established which does not have to resort to the type of sanctions traditionally characterized as repressive.⁹

II. DEVELOPMENT OF THE MOVEMENT TO ABOLISH SLAVERY AND SLAVE TRADE

Slavery existed in various ancient civilizations,¹⁰ and still persists today in different forms in almost forty countries.¹¹ Notwithstanding the existence of this inhumane institution, no collective international agreement or action had been initiated to abolish the slave trade or slavery until the nineteenth century. The first concerted efforts to suppress slave trade were made in the peace treaties of Paris of 1814 and 1815, and the 1815 Congress of Vienna.¹² At the Congress of Vienna, a declaration, signed by nine powers—Austria, France, Great Britain, Portugal, Prussia, Russia, Spain, and Sweden—stated that:

The commerce, known by the name of the 'Slave Trade' (*Traité des*

⁸ The conventions and the protocol are contained in G.A. Res. 2200A, 21 U.N. GAOR Supp. 16, at 49, U.N. Doc. A/6316 (1966).

⁹ On the theories of punishment, *see, e.g.*, M. C. BASSIOUNI, CRIMINAL LAW AND ITS PROCESSES: THE LAW OF PUBLIC ORDER Ch. I (1969).

¹⁰ *See, e.g.*, R. BARROW, SLAVERY IN THE ROMAN EMPIRE xvi (1928); O. SHERRARD, FREEDOM FROM FEAR 11 (1959).

¹¹ *See notes* 48, 55, 86, 128-29, and accompanying text, *infra*.

¹² CATALOGUE OF TREATIES 1814-1918, at 7 (U.S. Gov't Printing Office, pub. 1919).

Nègres d'Afrique) has been considered, by just and enlightened men in all ages, as repugnant to the principles of humanity and universal morality; [that] at length the public voice, in all civilized countries, calls aloud for its prompt suppression . . . [and] several European Governments have virtually come to the resolution of putting a stop to it.¹³

This seemingly forceful plea for the "prompt suppression" of slave trade was qualified by the acknowledgment that the declaration could not "prejudge the period that each particular Power may consider as most advisable for the definitive abolition of the Slave Trade."¹⁴

A similar declaration was signed in 1822 by five powers—Austria, France, Great Britain, Prussia, and Russia.¹⁵ In addition, several multilateral and bilateral treaties were concluded during the nineteenth century which called for specific measures to arrest and search ships allegedly transporting slaves and, in some instances, even provided for adjudicatory machinery to decide such cases.¹⁶ The 1841 Treaty of London¹⁷ and the 1862 Treaty of Washington¹⁸ are the most notable treaties on slavery of this period.

A significant effort to suppress slave trade on the international level was made in 1890 when the representatives of seventeen nations meeting in Brussels concluded a convention "to put an end to the crimes and devastations engendered by traffic in African Slaves."¹⁹ Since then efforts to eradicate slavery and slave trade have continued first under the auspices of the League of Nations and then under the United Nations. Nonetheless, the remnants of slavery, slave trade, and their analogous practices have not been eliminated completely. The United Nations is currently studying the "Question of Slavery and Slave Trade in All Their Practices and Manifestations . . ."²⁰ The following discussion will mainly focus on the U.N. deliberations on slavery and slave trade.

¹³ U.N. ECOSOC, Ad hoc Committee on Slavery, The Suppression of Slavery (Memorandum submitted by the Secretary General), U.N. Doc. ST/SOA/4 (1951) at 3 [hereinafter cited as 1951 Memorandum].

¹⁴ *Id.* at 4.

¹⁵ *Id.* at 4-5.

¹⁶ *Id.* at 5-11.

¹⁷ CATALOGUE OF TREATIES, 1814-1918, at 36 (U.S. Gov't Printing Office, pub. 1919).

¹⁸ Treaty with Great Britain on Suppression of African Slave Trade, 12 Stat. 1225-36, T.S. No. 126 (April 7, 1862).

¹⁹ CATALOGUE OF TREATIES, 1814-1919, at 141 (U.S. Gov't Printing Office, pub. 1919).

²⁰ For recent reports submitted by the Special Rapporteur on "Question of Slavery and the Slave Trade in All their Practices and Manifestations, Including the Slavery-like Practices of *Apartheid* and Colonialism," see 24 U.N. ECOSOC —, U.N. Doc. E/CN. 4/Sub. 2/322 (July 16, 1971) [hereinafter cited as 1971 Report of the Special Rapporteur]; 23 U.N. ECOSOC —, U.N. Doc. E/CN. 4/Sub. 2/312 (July 1, 1970) [hereinafter cited as 1970 Report of the Special Rapporteur].

III. INTERNATIONAL AGREEMENTS CONCERNING SLAVERY AND SLAVE TRADE PRIOR TO THE ESTABLISHMENT OF THE UNITED NATIONS

The 1890 Brussels convention was a most significant international agreement on the subject of slave trade. Although the convention was particularly concerned with the African continent, the General Act of the convention was a comprehensive document containing 100 articles.²¹ It obligated the contracting parties to undertake a number of economic, legislative, and military measures toward the suppression of the slave trade in Africa. Of special note are the provisions that:

1. granted the mutual right of visit and search over vessels of less than 500 tons within a defined maritime zone in which the slave trade was still in existence;²²
2. obtained pledges by contracting parties to whose territories "slaves are sent [and] whose institutions recognize the existence of domestic slavery,"²³ particularly those practiced in the Ottoman Empire, Persia, and Zanzibar; and
3. established institutions to secure the execution of the General Act—an international maritime office at Zanzibar²⁴ to centralize all documents and information sent by signatory states, and an international bureau at Brussels²⁵ for the exchange and circulation of documents and information relating to the slave trade.

The Brussels convention was followed by the convention of St. Germain-en-Laye, signed on September 10, 1919, by Belgium, the British Empire, France, Italy, Japan, Portugal, and the United States, with subsequent ratification by all the signatory states.²⁶ Article 11, paragraph 1 of the convention provides:

The signatory Powers exercising sovereign rights or authority in African territories will continue to watch over the preservation of the native populations and to supervise the improvement of the conditions of their moral and material well-being. They will, in particular, endeavor to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea.²⁷

²¹ The translated text of the General Act for the Repression of African Slave Trade is contained in 1951 Memorandum, at 46-68.

²² General Act for the Repression of African Slave Trade, arts. 20-29.

²³ *Id.* arts. 62-73.

²⁴ *Id.* arts. 74-80.

²⁵ *Id.* arts. 81-85.

²⁶ 49 Stat. 3027, T.S. No. 877 (April 3, 1930).

²⁷ See 1951 Memorandum, at 12.

The convention, however, made no provision for creating appropriate machinery to effectuate the objective expressed in Article 11(1). This lacuna was aptly considered by many observers to be an unfortunate occurrence, since Article 13 of the convention has been interpreted to abrogate the implementing provisions covering slavery in the Brussels Act.²⁸

Although the Covenant of the League of Nations did not contain any specific reference to slavery except for those countries within the Mandates System,²⁹ the League undertook the task of examining the question of world-wide slavery in 1922. Two years later, in 1924, the Council of the League established a Temporary Slavery Commission, which the following year reported on these eight topics:³⁰

1. legal status of slavery;
2. slave raiding and similar acts;
3. slave acts;
4. slave dealing;
5. practices restrictive of the liberty of the person;
6. domestic or *praedial* slavery (serfdom);
7. compulsory labor, public or private, paid or unpaid; and
8. transition from servile or compulsory labor to free-wage or independent production.

The Commission report was based on state responses to the two questionnaires the Secretary-General had sent to governments as well as on communications the Commission had received from nongovernmental sources.

A majority of the Commission recommended that an international convention on slavery be concluded and suggested the inclusion of specific topics in the proposed convention. The League Council and the Assembly acted favorably on this recommendation and the Slavery Convention was approved by the Assembly in its resolution of September 25, 1926.³¹ The legal definitions of slavery and slave trade, contained in article 1 of the Convention are among its lasting achievements. Slavery is defined as:

[T]he status of condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.³²

²⁸ See generally C. GREENIDGE, *SLAVERY* 178-79 (1958).

²⁹ For specific provisions, see 1951 Memorandum, at 27-28.

³⁰ Report of the Temporary Slavery Commission, LEAGUE OF NATIONS DOC. A.19 (July 25, 1925).

³¹ The resolution is contained in 1951 Memorandum, at 35-36.

³² Art. 1(1) of the Slavery Convention contained in 1951 Memorandum, at 14.

The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.³³

Although the convention, as finally adopted, did not incorporate the proposal that engaging in slave trade at sea should be declared piracy, it did contain specific measures for the suppression of slave trade at sea.³⁴ In another article, the convention attempted to limit the employment of forced labor.³⁵

Subsequently, in 1931, the Council of the League appointed a Committee of Experts on Slavery to conduct an appraisal of the effectiveness of the Slavery Convention "in putting an end to slavery."³⁶ Pursuant to the Committee's recommendation, an Advisory Committee of Experts on Slavery was set up in 1934 to study and examine the documents received by the League Secretariat. Annual sessions of the Advisory Committee continued until 1938 when it discontinued its work because of the outbreak of World War II. Included in its report to the Council was a chapter dealing with institutions analogous to slavery, such as (a) Debt Slavery, Pawning and Peonage; (b) Mui-Tsai system; (c) Quasi-adoption of children; and (d) Serfdom.³⁷

Among the notable achievements of the League efforts were: (1) the legal abolition of slavery in Afghanistan (1923), Iraq (1924), Nepal (1926), Transjordan and Persia (1929);³⁸ (2) a pledge by the government of Ethiopia that it would abolish slavery as a condition for admission to membership of the League;³⁹ and (3) the establishment of the International Commission of Enquiry to investigate allegations pertaining to conditions of slavery and forced labor in Liberia.⁴⁰ The League also made some progress in dealing with the subject of compulsory or forced labor.⁴¹

IV. THE UNITED NATIONS ROLE IN THE ABOLITION OF SLAVERY AND SLAVE TRADE

Although the U.N. Charter did not contain any specific reference to slavery, there was no doubt that the U.N. would confront the

³³ Art. 1(2) of the Slavery Convention contained in 1951 Memorandum, at 15.

³⁴ See art. 3 of the Slavery Convention contained in 1951 Memorandum, at 16-19.

³⁵ See art. 5 of the Slavery Convention contained in 1951 Memorandum, at 19-21.

³⁶ A brief reference to the committee's work is contained in the 1951 Memorandum, at 39-41.

³⁷ See LEAGUE OF NATIONS DOC. B.2, C.188, M. 173 (1937).

³⁸ Noted in 1970 Report of the Special Rapporteur, at 4.

³⁹ *Id.*

⁴⁰ LEAGUE OF NATIONS DOC. C.658, M.272, B.6 (1930).

⁴¹ See generally 1951 Memorandum, at 44-45.

problem squarely; for one of the U.N. objectives is to achieve international cooperation in "promoting and encouraging respect for human rights, and for fundamental freedoms for all without distinction as to race, sex, language, or religion."⁴² Thus, it was no surprise when the Universal Declaration of Human Rights, adopted by the General Assembly on December 10, 1948, proclaimed in article 4: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms."⁴³

The first specific action undertaken by the U.N. was the establishment of an *ad hoc* committee of experts to investigate into the field of slavery and other institutions or customs resembling slavery and to suggest methods of combating these problems. The committee was appointed by the Secretary-General pursuant to the 1949 decisions of the General Assembly and the Economic and Social Council respectively.⁴⁴ On the advice of the committee, a protocol was concluded in 1953 by which the 1925 Slavery Convention was placed under the care of the U.N. The committee also recommended that the 1926 convention be supplemented by a new instrument, since the earlier convention had not covered all institutions and practices similar to slavery. The outcome was the convocation in Geneva in August-September 1956 of a special conference, which was attended by members of the U.N. and its specialized agencies. The Conference adopted the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.⁴⁵

The 1956 Supplementary Convention was adopted to strengthen the 1926 Slavery Convention by including the following "institutions and practices, where they still exist and whether or not they are covered by the definition of slavery contained in Article 1 of the [1926 Slavery Convention]:⁴⁶ [d]ebt bondage, serfdom, the sale of women into marriage without their consent and the sham adoption of a child with a view to the exploitation of the child . . . or of his labour."⁴⁷

Subsequently, in July 1963, the Economic and Social Council discussed the question of slavery; several delegates remarked that slave trade was still in existence, and the Council adopted a resolu-

⁴² U.N. CHARTER art. 1, para. 3.

⁴³ U.N. Office of Public Information, *The Universal Declaration of Human Rights*—A Standard of Achievement, U.N. Publ. No. 62 I. 9 at 34.

⁴⁴ For a summary report, see 1951 Memorandum, at 1.

⁴⁵ See United Nations Conference of Plenipotentiaries on a Supplementary Convention of the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (Held at Geneva, Switzerland from 13 August to 4 September 1956), Final Act and Supplementary Convention, U.N. Doc. E/CONF. 24/23 (1956). The convention was adopted by 40 votes in favor, none against, and 3 abstentions.

⁴⁶ *Id.* at 19 (art. 1).

⁴⁷ *Id.* at 19-20 (art. 1).

tion⁴⁸ requesting the Secretary-General to appoint a special rapporteur on slavery so as to bring an earlier report up to date.⁴⁹ In February 1964, the Secretary-General appointed Mohamed Awad as the special rapporteur; his final report was submitted in July 1966.⁵⁰ The report was based on the responses of states, specialized agencies, and several non-governmental agencies in consultative status to a questionnaire on slavery formulated and dispatched by the Secretary-General in September-October 1964.⁵¹ It also contained the following recommendations, among others, for possible action by the United Nations:⁵² (1) that the U.N. program of technical assistance be expanded in order to bring about economic, social, and cultural reforms "for the elimination of all aspects of slavery and servitude,"⁵³ and (2) that the assistance of regional organizations be sought in combating slavery and slave trade.⁵⁴

The responses to the Secretary-General's questionnaire contained several useful suggestions, only a few of which will be noted here. Senegal asked for an international investigation of slave trade networks;⁵⁵ Iran suggested the conclusion of international agreements, providing for "judicial assistance and cooperation for the elimination of slavery";⁵⁶ Laos called for the holding of regional meetings to combat trafficking in women "which is rife in the South-east of Indo-China";⁵⁷ Nepal urged that the governments concerned be "persuaded to undertake legislative and administrative measures for abolishing slavery in their respective lands";⁵⁸ Nigeria stressed the importance of an international covenant which would provide "means of international supervision";⁵⁹ the Soviet Union urged the ratification of the 1956 Supplementary Convention;⁶⁰ and several nongovernmental organizations advocated the establishment of a special U.N. committee of experts and the holding of regional meetings and seminars.⁶¹

Pursuant to the rapporteur's recommendations, the Economic

⁴⁸ 36 ECOSOC Res. 960 (July, 1963).

⁴⁹ 19 U.N. ECOSOC Off. Rec., Annexes, Agenda Item No. 8, U.N. Doc. E/2673 (1955). The report of 1955 was prepared by Hans Engen, pursuant to Council resolution 525.

⁵⁰ Mohamed Awad, Report on Slavery, U.N. Doc. E/4168/Rev. 1 (1966) [hereinafter cited as 1966 Slavery Report].

⁵¹ *Id.* at 2-6.

⁵² *Id.* at 299-314.

⁵³ *Id.* at 301-03.

⁵⁴ *Id.* at 301.

⁵⁵ *Id.* at 275.

⁵⁶ *Id.* at 282.

⁵⁷ *Id.* at 301.

⁵⁸ *Id.* at 302.

⁵⁹ *Id.*

⁶⁰ *Id.* at 303.

⁶¹ *Id.* at 304-05.

and Social Council called upon all member states to ratify the 1926 Slavery Convention and the 1956 Supplementary Convention.⁶² The Council also decided "to refer the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of *apartheid* and colonialism, to the Commission on Human Rights,"⁶³ in order that it may make "specific proposals for effective and immediate measures which the United Nations could adopt to put an end to slavery"⁶⁴ and similar practices.

Since the Commission on Human Rights referred the question to its sub-commission on Prevention of Discrimination and Protection of Minorities, the Economic and Social Council adopted a resolution in May, 1968, authorizing the sub-commission:

to undertake a study of the measures which might be taken to implement the International Slavery Convention of 1926 and the Supplementary Convention of 1956 on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery and the various recommendations included in the resolutions of the General Assembly, the Economic and Social Council and the Commission on Human Rights relating to the slavery-like practices of *apartheid* and colonialism.⁶⁵

The sub-commission was further authorized to "initiate a study of the possibilities of international police co-operation to interrupt and punish the transportation of persons in danger of being enslaved, taking into account, as appropriate, the views of the competent international organizations."⁶⁶ Former special rapporteur Mohamed Awad, was designated to be the Special Rapporteur to carry out a study under the terms of the Council resolution. The Council also sought the assistance of the Secretary-General and the cooperation of specialized agencies and regional intergovernmental and nongovernmental organizations in the proposed study.⁶⁷

Meanwhile, on December 16, 1966, the General Assembly adopted the International Covenant on Civil and Political Rights,⁶⁸ which will transform the proclamation of the Universal Declaration into a legal obligation when the Covenant takes effect. Article 8 of the Covenant provides:

⁶² *Id.* at 313-14.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ U.N. ECOSOC, Preliminary Report Submitted by the Special Rapporteur, Mr. Mohamed Awad, U.N. Doc. E/CN. 4/Sub. 2/304, (Aug. 18, 1969), at 1-2 [hereinafter cited as 1969 Report of the Special Rapporteur].

⁶⁶ *Id.* at 2.

⁶⁷ 46 U.N. ECOSOC Res. 1419 (June 9, 1969).

⁶⁸ See Resolutions Adopted by the General Assembly During Its 21st Session, 20 Sept.-20 December, 1966: 21 U.N. GAOR Supp. 16, at 49, 52, U.N. Doc. A/6316 (1966).

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.
2. No one shall be held in servitude.⁶⁹

The Covenant also provides for the establishment of a Human Rights Committee,⁷⁰ whose function will be to consider reports on measures adopted by states to give effect to the rights recognized in the Covenant. In certain circumstances, the proposed Human Rights Committee will also consider communications from a state party claiming that another state party is not fulfilling its obligations under the Covenant. Under the Optional Protocol to the Covenant, the Committee will also be entitled to receive, in certain circumstances, communications from individuals alleging violations of any of the rights granted by the Covenant.⁷¹

V. A PROSPECTUS FOR ERADICATING SLAVERY AND THE SLAVE TRADE—THE 1971 SPECIAL REPORT

Within three months after his designation as Special Rapporteur, Mohamed Awad presented a preliminary report to the subcommission for consideration at its 22nd session.⁷² After noting that the presently available machinery for the implementation of the 1926 Slavery Convention was inadequate,⁷³ he observed that "further measures are [clearly] required"⁷⁴ to implement these conventions. He considered it "his primary task to study such measures and to make suggestions regarding them to the Sub-Commission."⁷⁵

The rapporteur noted his disappointment that the states parties to the 1956 Supplementary Convention had not communicated to the Secretary-General the measures they had undertaken to implement the convention.⁷⁶ He specially mentioned the two suggestions made by the Secretary-General: (1) that "the techniques used to suppress the illicit trade in narcotics might be adopted to suppress the illicit trade in slaves," and (2) that "the articles of the Single Convention (on Narcotic Drugs of 1961), dealing with the measures to ensure the execution of its provisions, might serve as a model for future conventions in the field of slavery in all its forms."⁷⁷ The rapporteur

⁶⁹ *Id.* at 54.

⁷⁰ *Id.* at 56-58.

⁷¹ *Id.* at 59. An individual's complaints will be considered if the same material is not being investigated under other international machinery and the individual has exhausted all available domestic remedies.

⁷² See 1969 Report of the Special Rapporteur, *supra* note 65.

⁷³ *Id.* at 2-5.

⁷⁴ *Id.* at 6.

⁷⁵ *Id.*

⁷⁶ *Id.* at 7-8.

⁷⁷ *Id.* at 10. See also U.N. Doc. E/CN. 4/Sub. 2/280, at 33, 42.

also examined the possibility of cooperation with the International Criminal Police Organization (INTERPOL) to suppress slavery.⁷⁸ The subcommission considered the preliminary report and resolved to widen the scope of the rapporteur's investigation, so as to include "measures for combating the manifestations of the slavery-like practices akin to *apartheid* which exist in Southern Rhodesia and Nambia, especially the practice of forced, sweated African labour and the total denial of trade union rights to Africans in those territories."⁷⁹

Subsequently the rapporteur consulted with officials of the International Labor Organization (ILO),⁸⁰ the United Nations' High Commissioner for Refugees (UNHCR),⁸¹ the Commission on Narcotic Drugs,⁸² the International Criminal Police Organization (INTERPOL),⁸³ the United Nations' Educational, Social and Cultural Organization (UNESCO),⁸⁴ and the Anti-Slavery Society.⁸⁵

On the present state of slavery and "slavery-like practices," the rapporteur noted that "the Anti-Slavery Society has reason to believe that chattel slavery, serfdom, debt bondage, the sale of children and servile forms of marriage survive today to the extent that they constitute a recognizable element in the pattern of society"⁸⁶ in several countries.

The rapporteur's discussions with the officials of the International Labor Office (ILO) caused him to explore the possibilities of further cooperation between the ILO and the U.N. He was impressed with the great variety of ILO programs "that contribute to the achievement of personal freedom for persons who have suffered as a result of living in servitude."⁸⁷ Specifically, he observed that: (1) in seeking further state ratifications of the 1926 and 1956 conventions, the U.N. could adopt some of the ILO's informal methods of encouraging governments to ratify the latter's international labor conventions;⁸⁸ (2) the U.N. could appeal to member states to ratify certain ILO conventions dealing with matters closely related to slavery and servitude,⁸⁹ and to give effect to certain ILO recommendations concerning "the improvement of conditions of life and work of tenants, share croppers and similar categories of agricultural

⁷⁸ See 1969 Report of the Special Rapporteur, at 13-14.

⁷⁹ 1970 Report of the Special Rapporteur, at 8-9.

⁸⁰ *Id.* at 12-23.

⁸¹ *Id.* at 24-26.

⁸² *Id.* at 26-32.

⁸³ *Id.* at 32-39.

⁸⁴ *Id.* at 39-42.

⁸⁵ *Id.* at 42-43.

⁸⁶ *Id.* at 43. See also 1971 Report of the Special Rapporteur, at 29.

⁸⁷ 1971 Report of the Special Rapporteur, at 15.

⁸⁸ *Id.*

⁸⁹ *Id.*

workers";⁹⁰ and (3) the U.N. may recommend to the ILO to continue and expand its assistance to persons "who escape from countries or territories where they have suffered from slavery, the slave trade or any of the slavery-like practices of *apartheid* or colonialism."⁹¹

The rapporteur's discussions with officials of the Division of Narcotic Drugs in Geneva were primarily directed to studying the Secretary-General's suggestions made in 1967 that:⁹² (1) the techniques that are being used to suppress the illicit trade in narcotics might be used to suppress the illicit trade in slaves, and (2) the articles of the Single Convention on Narcotic Drugs of 1961, dealing with measures of implementation, might serve as a model for future conventions on slavery. While the rapporteur did not reach any conclusion on the latter question, terming it "essentially political in character,"⁹³ he discussed the possibilities of adapting the two basic techniques used by the Division of Narcotic Drugs:⁹⁴ (1) the periodic publication of seizures and illicit transactions of narcotics, (2) and the promotion of technical cooperation in narcotics control.

The rapporteur favors the publication of periodic summaries of illicit traffic in persons, especially since:

1. states parties to the Supplementary Convention of 1956 are obligated, pursuant to Article 3(3) of the Convention, to exchange information on the subject, both as to measures taken by them in combating slave trade and as to cases of slave trade and attempts to engage in slave trade; and
2. the Economic and Social Council has, in its Resolution 1593 (L) of May 21, 1971, requested the Secretary-General to assist the states parties to the 1956 Convention in exchanging such information, and has authorized him to supplement such information by information available from official sources, including international organizations and states not parties to the 1956 Convention.⁹⁵

Although the rapporteur foresees the possibility of adapting the program of technical cooperation in narcotics control to suppress slavery and the slave trade,⁹⁶ he warns of two problems: First, the fear of states that their request for technical assistance to eliminate slavery and servitude might lead to the charges that they are "har-

⁹⁰ *Id.* at 16.

⁹¹ *Id.*

⁹² See notes 76-77 and accompanying text, *supra*.

⁹³ 1971 Report of the Special Rapporteur, at 22.

⁹⁴ *Id.* at 20-22.

⁹⁵ *Id.* at 20.

⁹⁶ *Id.* at 21.

bouring persons in a servile status.”⁹⁷ Second, he finds “a lack of general interest in the immediate eradication of institutions and practices which exist, . . . clandestinely and without legal sanction.”⁹⁸

In connection with the rapporteur’s consultations with various organizations, INTERPOL officials indicated their willingness to cooperate with the U.N. in its efforts to eliminate slavery and slave trade.⁹⁹ Specifically, INTERPOL was willing to furnish annually to the appropriate U.N. body the information it might have on the international traffic in persons.¹⁰⁰ Subsequently, on May 20, 1971, the U.N. Economic and Social Council approved an arrangement for the exchange of information between the U.N. and INTERPOL.¹⁰¹

To implement the exchange the rapporteur offered the following specific suggestions:

1. Since INTERPOL has already indicated that its machinery for cooperation “can function as effectively for slavery as for fraud, counterfeiting or theft,”¹⁰² its facilities should be utilized to stimulate international police cooperation “in order to enable the police forces in different countries to coordinate their work effectively in order to enforce the existing laws relating to slavery and the slave trade and to prevent and suppress crimes in this field.”¹⁰³ INTERPOL’s willingness to furnish information on the international traffic in persons has already been noted.¹⁰⁴ Furthermore, INTERPOL could stimulate government interest by taking certain measures, such as organizing international seminars for police officers who are responsible for combating slavery and slave trade, and encouraging research and publication in the field.¹⁰⁵
2. Regional activities should be encouraged to explore effective ways to eradicate the problem. Regional intergovernmental and nongovernmental organizations should arrange conferences and seminars for the exchange of ideas,¹⁰⁶ and regional agreements could perhaps be reached on common standards and programs for the solution of this problem.¹⁰⁷

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ *Id.* at 26. On consultations with INTERPOL, see *id.* at 22-27.

¹⁰⁰ *Id.* at 27.

¹⁰¹ *Id.* at 79-80.

¹⁰² *Id.* at 30.

¹⁰³ *Id.* at 29.

¹⁰⁴ See note 99 and accompanying text, *supra*.

¹⁰⁵ *Id.* at 30.

¹⁰⁶ *Id.* at 39-40.

¹⁰⁷ *Id.* at 39.

3. States should take the following steps to implement the principles embodied in the Slavery Conventions of 1926 and 1956:
 - a. Criminal laws should be enacted, providing for harsh penalties in cases of slavery, slave trade, and slavery-like institutions and practices;¹⁰⁸ more specific legislation outlawing such practices and institutions, making them penal offenses and establishing the necessary administrative machinery for eradicating them, may be necessary in some states.¹⁰⁹
 - b. Steps should be taken to prepare the people to accept effective state enforcement action. "Massive educational efforts" may be necessary to accomplish this objective, as well as that of promoting fundamental economic and social change in some states. Presumably, a planned effort would be made to make technical assistance available to states from international intergovernmental organizations, such as UNESCO and the United Nations Development Program, and nongovernmental organizations, especially religious organizations.¹¹⁰
 - c. Adequate assistance should be provided "to those freed from a status of slavery or servitude to facilitate their integration as free persons into the social life of their community."¹¹¹ ILO and UNESCO, among other international organizations, could provide useful services, the former in training people freed from slavery and slavery-like institutions for industrial employment, and the latter, through its educational programs, for the benefit of such persons.¹¹²
 - d. Legislation should be enacted where needed to abolish bondage.¹¹³
 - e. Measures should be taken to offer expanded land reform and vocational guidance programs,¹¹⁴ benefiting from the successful FAO (Food and Agriculture Organization) and ILO experiences in this regard.¹¹⁵

¹⁰⁸ *Id.* at 30, 37-38.

¹⁰⁹ *Id.* at 37.

¹¹⁰ *Id.* at 30, 47.

¹¹¹ *Id.* at 31, 47-49.

¹¹² *Id.* at 47-48.

¹¹³ *Id.* at 44-45.

¹¹⁴ *Id.* at 41-44.

¹¹⁵ *Id.*

- f. States which have not yet ratified the Slavery Conventions of 1926 and 1956 and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage of 1962 should ratify these conventions.¹¹⁶

VI. EFFORTS TOWARD THE SUPPRESSION OF WHITE SLAVERY—A COMPARISON

A problem related to slavery and the slave trade is white slavery. The forced use and trade of women and girls in and for the use of prostitution and other immoral purposes is a reprehensible form of human degradation and deprivation of freedom. Control of this practice has been attempted by regulation, prohibition, and abolition. A brief sketch of which follows.

The first international agreement on white slavery was reached in 1904 in the form of an International Agreement for the Suppression of White Slave Traffic.¹¹⁷ It was essentially a plan for the coordination of information relative to the procurement of women and girls for prostitution and immoral purposes by abuse or compulsion. Six years later, in 1910, the International Convention for the Suppression of the White Slave Traffic¹¹⁸ went beyond the measures contained in the 1904 agreement. It provided that the parties would be bound to criminal punishment of the offenders. The subject matter, however, remained within the exclusive domain of nation states, and the emphasis still was primarily on regulation.

In 1921 the International Convention for the Suppression of the Traffic in Women and Children¹¹⁹ was adopted, followed in 1933 by the International Convention for the Suppression of the Traffic in Women of Full Age.¹²⁰ Criminal sanctions were to be applied and extended to violations beyond the actual conduct to include attempt, preparation, as well as acts of enticing and leading away persons beyond the boundaries of a given state with intent to use them for such purposes as defined by the Convention. The model was now prohibitory rather than regulatory. However, the enforcement mechanism still rested on the notion that while the treaty had established an obligation, its implementation was to be national in scope, with the role of the international machinery being confined to providing information and insuring cooperation among member states.

¹¹⁶ *Id.* at 36-37.

¹¹⁷ The text is contained in 2 AM. J. INT'L L. SUPP. 363 (1908).

¹¹⁸ The text is contained in 1912-13 PARL. PAPERS, CMD. NO. 6326.

¹¹⁹ The text is contained in 18 AM. J. INT'L L. SUPP. 130 (1924).

¹²⁰ Submitted to the U.S. Senate on March 18, 1935, but no action was taken.

See 4 TREATIES, CONVENTIONS, INT'L ACTS, PROTOCOLS AND AGREEMENTS BETWEEN THE U.S. AND OTHER POWERS, 1923-31, at 5728 (U.S. Gov't Printing Office, pub. 1938).

Finally, in 1949, an all-inclusive "Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others," was adopted.¹²¹ This Convention, referred to as the "Consolidated Convention," attempts to abolish white slavery, while still relying on the enforcement mechanism embodied in the earlier conventions. All of these efforts have failed to accomplish the set objective, for the emphasis was on penal sanctions without giving adequate consideration to the endemic social and psychological reasons for the existence of the problem and without any serious attempts at changing subjectivities and mores.

The persistence of the problem led the U.N. Economic and Social Council to study the problem and prepare a report in 1959 on "Traffic in Persons and Prostitution,"¹²² wherein an action program was proposed. While the report noted that "the abolitionist system can be considered a necessary prerequisite to any programme of action to combat the traffic in persons and commercialized prostitution,"¹²³ the study recommended that to adopt the system without adopting controls to prevent prostitution and to rehabilitate those already involved, would be severely inadequate.¹²⁴

This report reveals that the prior emphasis on sanctions is inappropriate and concludes that like any other social problem:

prostitution is caused by factors which, although often of a general character, are shaped by national, regional and even local social and economic conditions. In the development of policies and the organization of programmes these conditions should be kept constantly in mind. Flexibility and adaptability, therefore, should be two main characteristics of such policies and programmes.¹²⁵

The suggestion should be made that in an effective international control scheme the emphasis should be along the lines of social attitudinal changes by a transformation of the basic values which support or tolerate the behavior sought to be altered. Such emphasis accounts for the relative success of the eradication of slavery and slave trade and the relative failure of the abolition of white slavery.

VII. APPRAISAL AND RECOMMENDATIONS

As previously noted,¹²⁶ the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the U.N. Commission on Human Rights, which has been assigned the task of studying the

¹²¹ The text is contained in United Nations, Human Rights: A Compilation of International Instruments of the United Nations, U.N. Doc. A/CONF. 32/4 (1967), at 48.

¹²² U.N. Doc. ST/SC/SD/8 (1959).

¹²³ *Id.* at 32.

¹²⁴ *Id.* at 32-33.

¹²⁵ *Id.* at 38.

¹²⁶ See note 65 and accompanying text, *supra*.

question of slavery and slave trade, has recently added colonialism and *apartheid* to be studied along with slavery and slave trade. However, the decision of the Sub-Commission should not be interpreted to mean that slavery and slave trade, which had been until recently the focus of international attention, no longer deserve the primary attention, or that the battle against such practices has been won.¹²⁷ A recent report from Afghanistan indicates that the practice of forced labor and serfdom, caused mainly by debt bondage, persists in that country.¹²⁸ Furthermore, the Anti-Slavery Society claims that debt bondage, serfdom, chattel slavery, servile forms of marriage, and the sale of children still constitute "a recognizable element in the pattern of society" in thirty-eight countries.¹²⁹

The rapporteur has noted that "the international traffic in persons for the purpose of reducing them to a servile status may no longer be a problem of world-wide proportions and that such slave trade as may continue to exist has been forced underground and in most cases out of sight."¹³⁰ But it is our conclusion that due to the clandestine nature of the slave trade at present, effective measures, which are world-wide and internationally coordinated, are necessary to destroy the remaining vestiges of the institution.

Any international control scheme must ultimately rely on the willful compliance and cooperation of states. World community prescriptions will, therefore, be effective if the participants in that process share the value-oriented goals of the program and are committed to its effective implementation. Admittedly, seldom will there be a uniform or completely homogeneous set of basic values for the world community, but the objective must be that of coalescing different standards and approaches so as to attain an identifiable set of basic human values. Concurrent with that systematic process, efforts should be made to check the prohibited activity.

¹²⁷ See, e.g., S. O'CALLAGHAN, *THE SLAVE TRADE TODAY* (1962). On comparative approach to slavery, see D. DAVIS, *THE PROBLEM OF SLAVERY IN WESTERN CULTURE* (1966); *SLAVERY IN THE NEW WORLD* (L. Foner and E. Genovese eds. 1969). For an incisive study, see S. ELKINS, *SLAVERY: A PROBLEM IN AMERICAN INSTITUTIONAL AND INTELLECTUAL LIFE* (1959). For good historical accounts see, *AMERICAN NEGRO SLAVERY* (A. Weinstein & F. Gatel, eds. 1968); E. COPLE, *A HISTORY OF SLAVERY AND ITS ABOLITION* (1969); J. INGRAM, *A HISTORY OF SLAVERY AND SERFDOM* (1895). In the post World War I era, see J. HARRIS, *SLAVERY OR "SACRED TRUST"?* (1926); K. SIMON, *SLAVERY* (1929). On the anti-slavery movement in Great Britain, which covered approximately the period 1770-1833, voluminous literature is available. See generally, R. COUPLAND, *THE BRITISH ANTI-SLAVERY MOVEMENT* (1933); F. KLINGBERG, *THE ANTI-SLAVERY MOVEMENT IN ENGLAND* (1926); O. SHERRARD, *FREEDOM FROM FEAR* (1959). For a recent study on Africa, see A. FISHER & H. FISHER, *SLAVERY AND MUSLIM SOCIETY IN AFRICA* (1970).

¹²⁸ Reported in Lake, *Afghanistan Peasant 'Slavery' Described*, *The Denver Post*, Dec. 1, 1971, at 13, col. 1. Lake published his report for Britain's Anti-Slavery Society in June 1971.

¹²⁹ 1970 Report of the Special Rapporteur, at 43.

¹³⁰ *Id.* at 44.

The lack of adequate national implementation and enforcement of the existing international legislation is a key problem. As of June 30, 1971, a large number of states had yet to ratify the Supplementary Convention. These included fourteen Latin American states, twelve Asian states, and twenty-five African states.¹³¹ Efforts to secure these ratifications should be the top priority item on the Economic and Social Council's agenda. Moreover, further measures should be taken to encourage the exchange of information, called for under article 3(3) of the Supplementary Convention. Finally, simultaneous efforts on all fronts should be taken to prevent, deter, and suppress these practices, while at the same time taking the necessary steps to rehabilitate those freed from servitude. The rapporteur's reports, which have been extensively discussed in this paper, offer several useful recommendations for states and intergovernmental and nongovernmental organizations.

Further studies should be conducted on the questions of enacting adequate international legislation and providing effective international machinery for implementation. Although the conventions of 1926 and 1956 may provide the necessary international legislation to cope with the problem of slavery, a case can be made for the codification into a single convention the existing multilateral conventions and protocols dealing with slavery.¹³² A single convention which provides for the enactment of penal laws, coordination of "preventive and repressive action against clandestine forms of slavery and servitude," mutual assistance and exchange of information and legal documents among the states and the United Nations, and the establishment of a permanent body of independent experts, responsible for ensuring the execution of its provisions, would be a significant step toward the elimination of slavery.¹³³ These measures might prove more effective in combating slavery than those presently available. Similarly, the question of the establishment of an international slavery board on the model of the International Narcotics Control Board should be given serious consideration.¹³⁴

Finally, the eradication of this type of behavior depends in large measure on the changing mores of the human society; therefore, the highest priority must be given to programs which lead to attitudinal changes rather than coercive-repressive measures.

¹³¹ Noted in 1971 Report of the Special Rapporteur, at 3.

¹³² *Id.* at 22. See also 1970 Report of the Special Rapporteur, at 47. See also Bassiouni, *International Extradition in American Practice and World Public Order*, 36 TENN. L. REV. 1 (1968).

¹³³ See 1970 Report of the Special Rapporteur, at 48; 1971 Report of the Special Rapporteur, at 77-78.

¹³⁴ See 1971 Report of the Special Rapporteur, at 49-50. See also Bassiouni, *The International Narcotics Control Scheme—A Proposal*, — ST. JOHNS L. REV. — (1972).